

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Darby Scott,

Case No. 3:14-cv-1243

Plaintiff

v.

ORDER

Larry Scott, et al.,

Defendants

On June 9, 2014, pro se plaintiff Darby Scott filed this action against his brother Larry Scott, attorney Jan Stamm, and Farmer's National Bank. At bottom, the complaint alleges that Larry and Stamm have prevented plaintiff from accessing two bank accounts at Farmer's Bank containing \$79,000 that belongs to plaintiff.

Although I must construe plaintiff's complaint liberally, *Boag v. MacDougall*, 454 U.S. 364, 365, (1982) (per curiam); *Haines v. Kerner*, 404 U.S. 519, 520 (1972), I may also, "at any time, sua sponte dismiss a complaint for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit or no longer open to discussion." *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir.1999); *see Hagans v. Lavine*, 415 U.S. 528, 536–37 (1974) (citing numerous Supreme Court cases for the proposition that patently frivolous claims divest the district court of jurisdiction).

Even construed liberally, the complaint fails to allege any claim over which the court has jurisdiction. The pleadings establish that plaintiff and at least one defendant (his brother) are

Ohio citizens, and nothing in the complaint suggests plaintiff's claim arises under federal law. On the contrary, the complaint appears to sound in Ohio tort law. This action is therefore subject to summary dismissal. *See, e.g., Lowe v. Huffstutler*, 1990 WL 66822, *1 (6th Cir.).

Accordingly, this action is dismissed. I certify that an appeal from this decision could not be taken in good faith. 28 U.S.C. § 1915(a)(3).

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge